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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MATTHEW ROSS, et al.,

Plaintiffs,

No. C 13-05097 PJH

v.

ECOLAB, INC.,

Defendant.

**ORDER GRANTING IN PART
AND DENYING IN PART MOTION
TO STRIKE AFFIRMATIVE DEFENSES**

The motion of plaintiffs Matthew Ross, et al., ("plaintiffs") for an order striking defendant Ecolab, Inc.'s ("defendant") affirmative defenses came on for hearing before this court on July 23, 2014. Plaintiffs appeared by their counsel Brian Hefelfinger, and defendant appeared by its counsel John Hunt.

Having read the parties' papers and carefully considered their arguments and the relevant legal authority, the motion to strike the affirmative defenses is GRANTED in part and DENIED in part as follows for the reasons stated at the hearing.

For the first affirmative defense (failure to state a claim), the motion is GRANTED, without leave to amend.

For the second affirmative defense (unjust enrichment), the motion is DENIED.

For the fourth affirmative defense (de minimis overtime), the motion is GRANTED, with leave to amend.

For the sixth affirmative defense (lack of standing), the motion is GRANTED, without leave to amend, but without prejudice to defendant's ability to raise the issue of standing in a subsequent dispositive motion.

For the seventh affirmative defense (after-acquired evidence), the motion is

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1 DENIED.

2 For the eighth affirmative defense (waiver), the motion is DENIED.

3 For the ninth affirmative defense (estoppel), the motion is DENIED.

4 For the tenth affirmative defense (laches), the motion is GRANTED, with leave to
5 amend.

6 For the eleventh affirmative defense (unclean hands), the motion is DENIED.

7 For the twelfth affirmative defense (consent), the motion is GRANTED, with leave to
8 amend.

9 For the eighteenth affirmative defense (entitlement to restitution), the motion is
10 GRANTED, with leave to amend.

11 For the twentieth affirmative defense (payment in full), the motion is GRANTED,
12 without leave to amend.

13 For the twenty-first affirmative defense (breach of duties), the motion is DENIED.

14 For the twenty-second affirmative defense (meal breaks were provided), the motion
15 is GRANTED, without leave to amend.

16 For the twenty-third affirmative defense (PAGA claims), the motion is DENIED.

17 For the twenty-fourth affirmative defense (decertification), the motion is DENIED.

18 For the twenty-fifth affirmative defense (Magee as class representative), the motion
19 is DENIED.

20 For the twenty-sixth affirmative defense (Ross as class representative), the motion is
21 DENIED.

22 For the twenty-seventh affirmative defense (defenses reserved), the motion is
23 GRANTED, without leave to amend.

24 Defendant shall file an amended answer, in accordance with this order, no later than
25 August 13, 2014. No new affirmative defenses may be added to the amended answer,
26 without leave of court or a stipulation of all parties.

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1 **IT IS SO ORDERED.**
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Dated: July 28, 2014


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PHYLIS J. HAMILTON
United States District Judge